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c 338 Religious Institutions Act

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CHAPTER 338

The Religious Institutions Act

1.—(1) Where a religious society or congregation of Christians desires to take a conveyance of land for the site of a church, chapel, meeting-house, burial ground, residence for a minister, book store, printing or publishing office or for any other religious or congregational purpose, such society or congregation may appoint trustees to whom, and their successors, to be appointed in such manner as may be specified in the conveyance, the land requisite for all or any of such purposes may be conveyed, and such trustees and their successors in perpetual succession, by the name expressed in the conveyance, may take, hold and possess the land and maintain and defend actions for the protection thereof and of their property therein.

Appointment and powers of trustees to take conveyances.

(2) The conveyance to the trustees may be made to them under a collective name, and it shall not be necessary to set out their individual names as parties thereto, provided such names be set out or appear therein by recital or otherwise, and this shall apply to conveyances heretofore made as well as to those hereafter to be made.

Description of trustees in conveyances.

(3) If the name by which any such religious society or congregation or trustees therefor have heretofore held or hereafter hold land under and pursuant to the powers of this Act has been or shall be changed by such religious society or congregation by by-law or resolution such change of name shall not prejudice or affect the title of the society or congregation or their trustees to the land. R.S.O. 1937, c. 379, s. 1.

Provision for change of name.

2. Where trustees appointed as provided in section 1 hold land for the purposes aforesaid or any of them and the religious society or congregation for which they hold the land desires to take a conveyance of additional land for any of such purposes, whether such additional land adjoins the land already held or not, and such religious society or congregation desires the same to be held by the same trustees, the society or congregation may by resolution direct that such land be conveyed to the trustees by their collective name and upon the conveyance being so made the land shall vest in the trustees for the purposes declared by the conveyance and shall be subject to the provisions of this Act in the same manner as the other land held by the trustees. R.S.O. 1937, c. 379, s. 2.

Conveyance of additional lands to trustees.

Power to vary number of trustees.

3.—(1) Any congregation or society of Christians entitled to the benefit of any land held under the provisions of this Act, or otherwise, may by a resolution passed by a two-thirds vote of the persons entitled to vote in respect of the appointment of trustees increase or decrease the number of trustees by the conveyance or otherwise to be appointed for the purpose of holding such land, or may in like manner fix the number of trustees if the conveyance makes no provision as to their number.

Notice, meeting and resolution.

(2) No such resolution shall be passed unless at a meeting of which notice has been given in the manner required for a meeting for the election of trustees for such land, stating that a proposal for increasing or decreasing or determining, as the case may be, the number of the trustees, will be considered at the meeting.

When resolution for increase in number to take effect.

(3) If the resolution provides for the appointment of more trustees than are authorized by the conveyance, or more than there are in fact if the number is not limited by the conveyance, the same shall take effect forthwith, and the additional trustees to be appointed may be elected at the meeting at which the resolution is passed or at a subsequent meeting.

When resolution for reduction in number to take effect.

(4) If the resolution provides for a smaller number of trustees than the conveyance provides for the resolution shall not take effect until vacancies occur, by death or otherwise, reducing the number of trustees to the number provided for by the resolution, and no other trustee shall be appointed until the number has been reduced below the number authorized by the resolution. R.S.O. 1937, c. 379, s. 3.

Power to mortgage.

4.—(1) Where a debt has heretofore been or is hereafter contracted for the building, repairing, extending or improving of a church, chapel, meeting-house, residence for a minister, book store, printing or publishing office or other building on land held by trustees for the benefit of any society or congregation in Ontario, or for the purchase of the land on which the same has been or is intended to be erected, the trustees, or a majority of them, may secure the debt or any part thereof by a mortgage upon the land, or may borrow money to pay the debt or part thereof and may secure the repayment of the loan and interest by a like mortgage upon such terms as may be agreed upon.

Where church building is not erected on land held by trustees.

(2) The authority conferred by this section shall extend to any land so held, although the church or other building in respect of which the debt is contracted is not erected on such land. R.S.O. 1937, c. 379, s. 4.

5. In the case of separate, but contiguous parcels of land held under separate conveyances by trustees for the same religious society or congregation under this Act, if such parcels of land be so used, occupied, or built upon as to become indivisible except by the removal, alteration, or destruction, in whole or in part, of such user, occupation or building, the trustees of such parcels may join in any mortgage authorized by section 4. R.S.O. 1937, c. 379. s. 5.

Power to join in mortgage of lands held under separate conveyances.

6.—(1) The grantees in trust named in any letters patent from the Crown, or the survivors or survivor of them, or the trustees for the time being appointed in manner prescribed in the letters patent, whereby land is granted for the use of a religious society or congregation and any other trustees for the time being entitled by law to hold land in trust for the use of a religious society or congregation may lease for any term not exceeding 21 years land so held by them at such rent and upon such terms as the trustees or a majority of them deem reasonable.

Power to lease.

(2) In such lease the trustees may covenant or agree for the renewal thereof at the expiration of any or every term of years for a further term of 21 years or a less period at such rent and on such terms as may then be agreed upon with the lessee, his heirs, executors, administrators or assigns, or may consent or agree for the payment to the lessee, his executors, administrators or assigns of the value of any buildings or other improvements which may at the expiration of any term be on the demised premises, and the mode of ascertaining the amount of such rent or the value of such improvements may also be specified in the original lease.

Power to agree in leases to renew.

(3) The trustees shall not so lease without the consent of the society or congregation for whose use they hold the land in trust, and such consent shall be signified by the votes of a majority of the members present at a meeting of the society or congregation duly called for the purpose; nor shall the trustees lease any land which at the time of making the lease is necessary for the purpose of erecting a church or place of worship or other building thereon or for a burial ground for the society or congregation.

Consent of society or congregation to lease.

(4) The trustees may, in their own names or by any name by which they hold the land, sue or distrain for rent in arrear, and may take all such means for the recovery thereof as landlords are entitled to take. R.S.O. 1937, c. 379, s. 6.

Remedies of trustees for rent in arrear.

7.—(1) Where land held by trustees for the use of a society or congregation becomes unnecessary to be retained for such

Power to sell.

use and it is deemed advantageous to sell it, the trustees for the time being may give public notice of an intended sale, specifying the premises to be sold and the time and terms of sale, and after publication of the notice once in each week for four successive weeks in a daily or a weekly newspaper published in or near the place where the land is situate they may sell the land at public auction according to the notice, but the trustees shall not be obliged to sell if in their judgment an adequate price is not offered.

Private sale.

(2) The trustees may thereafter sell the land either by public or private sale, but a less sum shall not be accepted at private sale than was offered at the public auction without the consent of the society or congregation.

Special powers not affected.

(3) This section shall not affect or vary any special powers or trusts for sale contained in any deed or instrument inconsistent herewith. R.S.O. 1937, c. 379, s. 7.

Sale or exchange of property held by trustees.

8.—(1) Where at a meeting of a society or congregation duly called in accordance with the statutes, by-laws, rules and regulations governing the same, it has been proposed to sell, exchange or otherwise deal with any land held by trustees for the use of such society or congregation, and the society or congregation has by resolution approved of the proposed method of dealing with such land, or some part thereof, and the price to be paid or property to be accepted in exchange therefor, and all other terms and conditions of such sale, exchange, or other disposition, it shall not be necessary for the trustees to give any other notice or to offer the land for sale by public auction, as provided in section 7, but the trustees may make a conveyance or other disposition of the land dealt with in accordance with the terms and conditions of such resolution.

Notice of meeting.

(2) In the absence of any rule or regulation defining the notice that is to be given of any meeting of such society or congregation, such meeting shall be properly called upon three days' notice given by announcement from the pulpit or by written notice posted up upon the door of the church and in the nearest schoolhouse or post office for three days before such meeting. R.S.O. 1937, c. 379, s. 8.

Conveyance to trustees of new congregation.

9.—(1) Where land is held by trustees for the use of a religious society or congregation and a separate society or congregation is formed therefrom, the trustees for the time being may convey to the trustees of such separate society or congregation such part of the land as is no longer required for the use of the society or congregation for the use of which it is so held, but no such conveyance shall be made unless and until the assent thereto of the last-mentioned society or con-

gregation has been first obtained or the conveyance is sanctioned in the manner provided by section 12.

(2) Every conveyance heretofore executed to any such separate society or congregation and so assented to or sanctioned shall be as valid and binding as if subsection 1 had been in force at the time such assent or sanction was given and such conveyance was executed; but this subsection shall not apply to a conveyance which is in question in an action pending on the 7th day of March, 1910, or which has heretofore been determined to be invalid or affect any adverse right or title acquired before that date. R.S.O. 1937, c. 379, s. 9.

As to such conveyance heretofore executed.

10.—(1) Where land is held by trustees for the use of any religious society or congregation and such society or congregation desires to unite with another society or congregation of the same denomination, the trustees for the time being may convey any land held by them to the trustees of the last-mentioned society or congregation or of the united society or congregation, but no such conveyance shall be made unless and until it is assented to or sanctioned in the manner provided by section 12.

Conveyance where congregations unite.

(2) Every such conveyance heretofore made shall be as valid and binding as if subsection 1 had been in force at the time such assent or sanction was given and such conveyance was made. R.S.O. 1937, c. 379, s. 10.

Conveyances heretofore made.

11. The trustees of any religious society or congregation may convey the land belonging to such society or congregation to any incorporated board of the denomination of which such society or congregation forms part, but no such conveyance shall be made unless and until the assent thereto of such society or congregation has been first obtained or the conveyance is sanctioned in the manner provided by section 12. R.S.O. 1937, c. 379, s. 11.

Conveyance to denominational board.

12.—(1) Before any conveyance is executed in pursuance of a public or private sale, the society or congregation for whose use the land is held shall be duly notified thereof, and its assent obtained to the execution of the deed, and such assent shall be signified by the votes of a majority of the members present at a meeting of the society or congregation duly called for the purpose.

Consent of society or congregation to sale.

(2) Such assent shall be held in favour of the grantee, his heirs and assigns to be conclusively attested by the execution of the deed by the chairman at such meeting, or by the official head of such society or congregation, or by some person appointed at such meeting for the purpose, and the person

Evidence.

assuming to execute the deed as chairman, official head or appointee shall be deemed to be such chairman, official head or appointee, as the case may be.

Approval by
county
judge.

(3) Instead of such assent, it shall be sufficient for the validity of any such conveyance that the sale be sanctioned and the conveyance approved of by the judge of the county or district court of the county or district in which the land is situate. R.S.O. 1937, c. 379, s. 12.

Mode of
appointing
trustees'
successors.

13.—(1) Any society or congregation on whose behalf land is now, has been or hereafter may be held by a trustee or trustees, without the manner of appointing successors being set forth in the grant, conveyance, or devise of such land, or which is or may be entitled to any land, at any time hereafter may assemble in a public meeting duly convened by notice in writing, signed by at least five members of such society or congregation, and affixed to the door of its place of worship, at least eight days before the day appointed for holding such meeting, and at such meeting, by the votes of a majority of the members present, may determine in what manner the successors to such trustee or trustees shall be appointed, or may appoint a trustee or trustees of any land to which the society or congregation is entitled, and determine in what manner their successors in the trust shall be appointed.

Effect of
registration
of pro-
ceedings.

(2) Any land to which the society or congregation is entitled shall from time to time vest in and be held by the trustee or trustees to be appointed as hereinbefore mentioned, and their successors in the trust, immediately upon the registration of the proceedings without any or further conveyance or instrument. R.S.O. 1937, c. 379, s. 13.

Where two
societies
desire to
build a
house of
worship:

14. Where members or adherents in any locality of two or more religious societies desire to build a house for public worship, it shall be lawful for each of the societies respectively to appoint from time to time one trustee in the manner and form prescribed in this Act, and the trustees of the religious societies so united shall have the like powers as are conferred on trustees under this Act, and no others, and as to any act, deed or thing to be done or made by trustees under this Act which requires the sanction or assent of the society or congregation, the trustees under this section shall obtain the sanction or assent of each and every of the religious societies so united, to be ascertained and signified in the manner hereinbefore mentioned. R.S.O. 1937, c. 379, s. 14.

Record of
proceedings.

15.—(1) A record of the proceedings of every meeting held under this Act shall be entered in the minute book or other official register of the acts and proceedings of the society

or congregation, and shall be signed by the chairman and secretary thereof, and shall thereafter be deposited of record among the archives of the society or congregation, and a copy of such record verified by the affidavit of the chairman or secretary of the meeting may be recorded in the registry office of the registry division in which the land is situate.

(2) A copy of such proceedings taken from the minute book or other official register of the society or congregation and certified by the clerk or custodian of the records of the society or congregation, or a copy certified by the registrar of the registry division wherein the same has been registered, shall be *prima facie* evidence of the contents thereof. R.S.O. 1937, c. 379, s. 15. Copy as evidence.

16. Trustees selling or leasing land under the authority of this Act shall on the first Monday in July in every year have ready and open for the inspection of the society or congregation which they represent, or of any member thereof, a detailed statement showing the rents which accrued during the preceding year, and all sums of money whatever in their hands for the use and benefit of the society or congregation which were in any manner derived from the land under their control or subject to their management, and also showing the application of any portion of the money which has been expended on behalf of the society or congregation. R.S.O. 1937, c. 379, s. 16. Duty of trustees as to accounting.

17. This Act shall not repeal, alter, affect or vary any of the provisions in any special Act contained with reference to any religious society or congregation, but, on the contrary, any of such provisions which differ from or are inconsistent with any of the provisions of this Act shall prevail, and where any additional rights or privileges are conferred by this Act, they shall be construed as supplementary to the provisions contained in any such special Act, and in every case the special trusts or powers of trustees contained in any deed, conveyance or other instrument shall not be affected or varied by any of the provisions of this Act. R.S.O. 1937, c. 379, s. 17. This Act not to affect special Acts as to religious bodies.

18.—(1) Whenever any two or more parcels of land adjoining each other, or in the same neighbourhood, are held as sites for burial grounds, by different bodies of trustees, whether of the same or different denominations, societies or congregations, and such trustees think it desirable that such parcels should be vested in one body of trustees, such two or more bodies of trustees, or the majority of each of such bodies, may by deed appoint trustees to whom and their successors, to be appointed in such manner as may be specified in such deed, all or any of the land vested in such appointing bodies of trustees Power to appoint joint trustees for two or more burial grounds which adjoin each other.

as sites for burial grounds may be conveyed, and such trustees so appointed and their successors in perpetual succession by the name expressed in the deed may take, hold and possess the land thereby or thereafter conveyed to them as a site or sites for a burial ground, and maintain and defend actions for the protection thereof and of their property therein, and the several appointing bodies of trustees may, in or by the same deed of appointment or by any other deed or deeds, convey and assure all or any of the parcels of land so vested in them respectively to such trustees so appointed and their successors upon, with and subject to such trusts, powers, limitations and provisions not inconsistent with the purposes of a burial ground as shall by the parties thereto be deemed proper.

Assent of congregation or religious body required.

(2) No such deed of appointment of trustees and no such conveyance or assurance shall be made or executed by any body, or the majority of any body, of trustees unless or until the society or congregation for whose use the land is held is duly notified thereof, and its assent obtained to the execution of such deed of appointment, or of such conveyance or assurance, and such assent shall be signified by the votes of a majority of the members present at a meeting of the society or congregation duly called for the purpose.

Evidence of assent.

(3) Such assent shall be held in favour of such new trustees and their successors to be attested by the execution of the deed by the chairman at such meeting, or by the official head of such society or congregation, or by some person appointed at such meeting for the purpose, and the person assuming to execute the deed as chairman, official head, or appointee shall be presumed to be such chairman, official head, or appointee, as the case may be. R.S.O. 1937, c. 379, s. 18.

Rights extended to the Church of England.

19.—(1) All the rights, powers, and privileges, conferred upon any society or congregation by this Act shall extend and apply to the Church of England in Ontario, formerly or otherwise called the United Church of England and Ireland in Canada, or the United Church of England and Ireland in Upper Canada, or the Church of England in Upper Canada.

Incumbent and church wardens to be trustees.

(2) The parson or other incumbent of the church for the time being and the churchwardens thereof shall, for the purposes of this Act, be deemed to be trustees within the meaning thereof.

Bishop, etc., to be trustees under 3 V., c. 74, s. 16.

(3) In cases within section 16 of the Act passed in the third year of the reign of Her late Majesty Queen Victoria, chaptered 74, intituled *An Act to make provision for the management of the Temporalities of the United Church of England and Ireland in this Province, and for other purposes therein mentioned*, the bishop, or parson, rector or incumbent or any successor or other person in whom the legal title or

estate is vested, by, from or under any of them, shall also be deemed to be a trustee by whom the like rights and powers of trustees may be exercised as in the case of such trustees.

(4) In cases of property vested in the bishop of any diocese in trust, not covered by subsection 3, the bishop shall also be deemed to be a trustee by whom the like powers of trustees under this Act may be exercised as in the case of such trustees.

Property vested in the bishop in trust.

(5) In cases of property vested in the synod of any diocese within the Act passed in the seventh year of the reign of Her late Majesty Queen Victoria, chaptered 68, intituled *An Act to Incorporate the Church Societies of the United Church of England and Ireland, in the Dioceses of Quebec and Toronto*, and the Act passed in the thirty-second year of the reign of Her late Majesty Queen Victoria, chaptered 51, intituled *An Act to Incorporate the Synod of the Diocese of Toronto, and to Unite the Church Society of the Diocese of Toronto therewith*, the synod shall also be deemed to be a trustee by whom the like rights and powers of trustees under this Act may be exercised as in the case of such trustees, and the powers of the synod under this subsection may be exercised by and through such boards and committees as the synod may by by-law appoint for that purpose.

Property vested in the synod in trust within 7 V., c. 68 and 32 V., c. 51.

(6) Provided that land shall not be sold or leased, mortgaged or otherwise encumbered under the powers conferred by this Act except with the consent of the vestry of the church or congregation interested therein and of the bishop of the diocese and the executive committee of the synod of the diocese, and it is hereby declared that the consent of the vestry given in accordance with the rules and canons of such church shall be deemed to be the consent of the congregation, and the execution of the conveyance by the bishop and by the secretary or secretaries of the synod, or a memorandum of consent endorsed thereon and signed by them, shall, in favour of the grantee, his heirs and assigns, be conclusive evidence of the consent of the bishop and executive committee. R.S.O. 1937, c. 379, s. 19.

How land may be sold or encumbered, consent requisite.

20. All the rights and privileges conferred upon any religious society or congregation mentioned in section 1 shall extend in every respect to the Roman Catholic Church, to be exercised according to the government of that church. R.S.O. 1937, c. 379, s. 20.

Rights extended to Roman Catholic Church.

21. All the rights and privileges conferred upon any religious society or congregation mentioned in section 1 have been, since the 7th day of April, 1891, and are hereby extended to and shall apply to any society or congregation of Jews professing the Jewish religion. R.S.O. 1937, c. 379, s. 21.

Rights extended to Jews.

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